

## CHAPTER OVERVIEW

This chapter describes the criteria and process when the Family Support Team has made the recommendation that parental rights be terminated or when the birth parents wish to voluntarily allow their child(ren) to be adopted.

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### 26.1 Mandate and Rationale

Section 210.720 requires:

- A. When a child has been placed in the custody of the Children's Division (CD) in accordance with subdivision (17) of subsection 1 of section 207.020, RSMo, or in another authorized agency, by a court, or has been placed in foster care by a court, every six months after the placement, the foster family, group home, agency, or child care institution with which the child is placed shall file with the court a written report on the status of the child. The court shall review the report and shall hold a permanency hearing within twelve months of initial placement and at least annually thereafter. The permanency hearing shall be for the purpose of determining, in accordance with the best interests of the child, a permanent plan for the placement of the child, including whether the child should be continued in foster care, whether the child should be returned to a parent, guardian or relative, or whether proceedings should be instituted by either the juvenile officer or the Division to terminate parental rights to legally free such child for adoption.
- B. In such permanency hearings the court shall consider all relevant factors including:
  - a. The interaction and interrelationship of the child with the child's foster parents, parents, siblings, and any other person who may significantly affect the child's best interests;
  - b. The child's adjustment to his or her foster home, school and community;
  - c. The mental and physical health of all individuals involved, including any history of abuse of any individuals involved; and
  - d. The needs of the child for a continuing relationship with the child's parents and the ability and willingness of parents to actively perform their functions as mother and father to meet the needs of the child.

- C. The judge shall make written findings of fact and conclusions of law in any order pertaining to the placement of the child.

Section 211.444 allows the court to terminate parental rights of a child if it finds that termination is in the best interest of the child and the parent has consented in writing to the termination.

NOTE: It is imperative to identify any man/all men having/claiming interest in the child. Men having an interest could include alleged father, man named by mother as biological father of child; putative father, man who claims to be biological father of child; and, legal father, man, if applicable, married to mother at time child is conceived. See sections 210.817 to 210.853 and 193.225 to 193.325 of the Missouri Revised Statutes for information on establishment of paternity.

Section 211.447 allows any person to make a referral to the juvenile office for the termination of parental rights and establishes grounds for termination.

## **26.2 Definition and Purpose**

Termination of parental rights proceedings may be initiated upon the request of the child's parent(s) (voluntary relinquishment) or by any other person, including CD, making a referral to the appropriate juvenile office. The Family Support Team, in assessing a child's needs for permanency, should consider termination of parental rights if permanency through adoption or other enduring adult relationships is a reasonable expectation and meets the child's needs.

Termination of parental rights may be a simple legal process when both/all parents to the child are identified, located and voluntarily relinquish their parental rights. Conversely, termination of parental rights may be a time consuming and complex legal matter if one or both parents object to his/her parental rights being terminated. Additionally, involuntary termination of parental rights based on severe or recurrent acts of abuse/neglect and parent's failure to rectify conditions which led to the assumption of jurisdiction require that the facts and grounds for termination be established and documented. Section 211.447 allows the court to terminate parental rights, after one (1) year if the child has been adjudicated as abused or neglected and grounds for involuntary termination are established. Individual courts may interpret the involuntary termination statutes differently or be reluctant to pursue premature termination of parental rights. Staff should consult with the juvenile officer on all cases where involuntary termination of parental rights is being considered by the Family Support Team.

## **26.3 Guidelines For Assessing Termination of Parental Rights (TPR)**

- A. The parent(s), i.e., mother and/or father, freely and voluntarily consent to the relinquishment of all rights in and to the child; and/or,

- B. Reunification of child with parent(s) is not likely in foreseeable future and evidence exists for involuntary termination of parental rights, i.e., abandonment, failure to rectify, severe act or recurrent acts of abuse/neglect, etc.; and,
- C. Termination of parental rights is in the best interest of the child, i.e., adoption offers best prospects for stability and permanency.

#### **26.4 Procedures for Pursuing Voluntary Termination of Parental Rights (TPR)**

A request for voluntary termination of parental rights may come from expectant mothers who wish to place their infant for adoption or parent(s) of one or more children. In both circumstances the Children's Service Worker should determine the basis for the parent(s) request. The worker should inform the parent(s) of the full range of alternatives for providing for the child including services available through the Children's Division and other agencies and community resources. Also, the worker explains to the parent(s) the legal process and consequences of termination of parental rights and the adoption process. Once voluntary relinquishment becomes the plan, the following steps should be completed:

- A. Written consent forms, authorized by the local juvenile court, should be completed and signed in accordance with court policy.
- B. If a custody order is required, follow local juvenile court requirements for obtaining one.
- C. Cooperate with local juvenile court requirements for letter/report, interrogatories, depositions, appearances, testimony, etc.
- D. Collect parental background information, i.e., ethnic/cultural/religious heritage, physical description, health, education, etc.
- E. Once case is concluded, obtain copy of any orders entered.
- F. If costs are assessed by court order against the Division, payment must be processed.

NOTE: Section 211.444, RSMo, states: "The written consent required by subsection 1 of this section shall be valid and effective only after the child is at least forty-eight hours old and if it complies with the other requirements of section 453.030, RSMo."
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#### **26.5 Procedures for Involuntary Termination of Parental Rights (TPR)**

A plan for involuntary termination of parental rights may be appropriate when the parents have failed to rectify conditions which contributed to the child's out-of-home placement and there is little likelihood that the conditions will be remedied at an early date. When the Family Support Team determines that the child's best interest would be served by

pursuing involuntary termination of parental rights, the Family Children's Service Worker should take the following steps:

- A. Review termination of parental rights statutes (Section 211.440 – 211.487) and determine if case information is consistent with TPR grounds for an involuntary action.
- B. Advise the parents of such and explore with them the prospects of voluntary relinquishment of their rights.
- C. Seek a staffing with local juvenile court officials to fully assess case prior to submitting a formal written request for involuntary termination of parental rights.
- D. If a staffing cannot be arranged, prepare a formal written request for involuntary termination of parental rights setting forth the basis for recommending termination of parental rights, pursuant to section 211.447, RSMo, i.e., abandonment, failure to rectify, recurrent acts of abuse along with any supportive documentation that may be on file.
- E. Notify parents in person, if possible, and by registered mail of Division's recommendation to juvenile court to pursue involuntary termination of parental rights.
- F. Submit a written report in accordance with local juvenile court policy. The Family Children's Service Worker should document:

- Efforts expended to identify and locate parents,

Related Subject: Chapter 4, of this section, Attachment A; Locating the Non-custodial Parent.
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- Services provided to each parent, i.e., intensive in-home services, drug/alcohol assessment, counseling and/or group meetings, parent aid services, family and/or individual counseling, parent training;
- Response of parent(s) to services, i.e., did parent attend as required, did parent actively participate, has parent demonstrated improved abilities or skills as a result of services;
- Assessment of child's needs, i.e., is continuing relationship with birth parent positive or negative for child, prospects for adoption; and,
- Rationale for recommendation, i.e., even if given more time and more services, parents will not in foreseeable future be in position to assume care and custody of child.

G. Receive written decision from juvenile officer regarding intent to file TPR petition.

- Follow up with a letter requesting decision if written decision is not received within 30 calendar days.

NOTE: ALL ORDERED EVALUATIONS AND REPORTS SHALL BE MADE AVAILABLE TO THE COURT 15 DAYS PRIOR TO THE DISPOSITIONAL HEARING OR AS ORDERED BY THE COURT.

H. If juvenile officer declines to file petition for involuntary termination of parental rights, cases should be reviewed through supervisory channels for referral to Division of Legal Services for review and action as appropriate.

- Continue services to family and child.

I. If petition for involuntary termination of parental rights is filed, cooperate with local juvenile court requirements for interrogatories, depositions, appearances, testimony, etc.

NOTE: Pursuant to section 210.145, RSMo; "15. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However, nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made." This provision of the law is to limit harassment reports. However, as a result, staff may be denied the ability to enter some evidence.

J. Collect parental background information, i.e., ethnic/cultural/religious heritage, physical description, health, education, etc.

K. Once case is concluded, obtain copy of any orders entered.

1. Continue services to child and family if petition is denied.
2. Seek administrative review, if petition is denied.
3. Complete additional information to strengthen grounds for petition.

NOTE: If the decision of the court is to terminate the parents rights, it will be necessary to inform the parents of their right to consent to release of identifying information to the child, at age 21 and over, by filing an affidavit with the court which grants the adoption or to indicate their willingness for contact by the child, at age 21 or over, by registration with the Missouri Adoption Registry.

4. Implement adoptive placement planning.

L. Continue reporting progress of care until:

1. Child is placed

or

2. Custody is transferred to adoptive family including foster families.

3. Record all activity every 30 days.

M. If costs are assessed by court order against the Division, payment must be processed.

MEMORANDA HISTORY: